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Judgment of the Court in Joined Cases C-185/24 and C-189/24 | [Tudmur]¹

Asylum policy: The unilateral suspension of measures concerning the transfer of asylum seekers by the Member State responsible does not, in itself, justify the finding of systemic flaws

The existence of such a flaw may be established only following a specific analysis based on information that is objective, reliable, specific and properly updated

This case relates to the interpretation of the Dublin III Regulation² which establishes the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

Two Syrian nationals, RL and QS, filed an application for asylum in Germany. Italy was however identified as the Member State responsible.³ The German authorities therefore requested Italy to take charge of RL and QS. That request did not receive a reply. The German authorities subsequently dismissed the applications for asylum as inadmissible on the ground that Italy was responsible for examining those applications for asylum. They also ordered the removal of those applicants to Italy.

The actions brought by the asylum seekers against the decisions of the German authorities are currently pending before the Higher Administrative Court for the *Land* of North Rhine-Westphalia, the referring court. During the appeal proceedings, the Italian Dublin Unit issued a circular to all Dublin Units by which it requested the Member States to temporarily suspend all transfers to Italy for technical reasons. By a second circular, the Italian Unit confirmed the unavailability of reception facilities given the high number of arrivals and the lack of available reception places. In that context, the German court requests the Court of Justice to provide clarification concerning the interpretation of the Dublin III Regulation, in particular concerning the existence of systemic flaws in the Member State designated as responsible.

The Court replies that **the fact that a Member State has unilaterally suspended the taking charge of asylum seekers is not capable, in itself, of justifying the finding of systemic flaws in the asylum procedure and in the reception conditions for applicants for international protection.**

The Court observes that, in the context of the Common European Asylum System, in particular the Dublin III Regulation, it must be presumed that the treatment of applicants for international protection in all Member States complies with the requirements of the Charter,⁴ the Convention relating to the Status of Refugees,⁵ and the European Convention on Human Rights.⁶

The Dublin III Regulation sets out two cumulative conditions for a finding that an applicant for international protection cannot be transferred to the Member State responsible. Only 'systemic flaws', 'resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the [Charter]' preclude such a transfer. As regards the first condition, the flaws must remain in place and concern, generally, the asylum procedure and the reception conditions applicable to applicants for international protection or, at least, to certain groups of them and,

moreover, attain a particularly high level of severity, which depends on all the circumstances of the case. The second condition, which relates to there being a risk of such treatment, is satisfied where the systemic flaws result in a risk, for the person concerned, of being exposed to treatment that is contrary to Article 4 of the Charter.

It is for the court or tribunal hearing an action challenging a transfer decision to carry out an assessment of the existence of such systemic flaws and of the risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter. That court or tribunal may, in that context, take into account all available documents, such as, where appropriate, the regular and concordant reports of international non-governmental organisations bearing witness to practical difficulties in the implementation of the Common European Asylum System in the Member State concerned, documents issued by the United Nations High Commissioner for Refugees (UNHCR), as well as documents and exchanges of information in connection with the implementation of the system established by the Dublin III Regulation.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text and, as the case may be, the abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

² [Regulation \(EU\) No 604/2013](#) of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

³ It has been established that the country of first entry of those nationals was Italy, which was therefore regarded as the Member State responsible.

⁴ The Charter of Fundamental Rights of the European Union.

⁵ The Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 (*United Nations, Treaty Series*, Vol. 189, p. 150, No 2545 (1954)), entered into force on 22 April 1954 and supplemented by the Protocol relating to the Status of Refugees, concluded in New York on 31 January 1967 and entered into force on 4 October 1967.

⁶ The Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950.